

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION

|   |   |                               |
|---|---|-------------------------------|
| ROBERT ROSS, Individually and On Behalf | ) | No. 2:05-cv-00819-EAS-TPK     |
| of All Others Similarly Situated        | ) | ( <b>Consolidated</b> )       |
|   | ) |                               |
| Plaintiff,                              | ) | <u>CLASS ACTION</u>           |
|   | ) |                               |
| vs.                                     | ) | JUDGE EDMUND SARGUS, JR.      |
|   | ) | MAGISTRATE JUDGE TERENCE KEMP |
| ABERCROMBIE & FITCH COMPANY, et         | ) |                               |
| al.,                                    | ) |                               |
|   | ) |                               |
| Defendants.                             | ) |                               |
|   | ) |                               |
|   | ) |                               |

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PLAINTIFF'S RESPONSE TO DEFENDANT ROBERT S. SINGER'S  
REQUEST FOR HEARING REGARDING PLAINTIFF'S MOTION TO COMPEL  
PRODUCTION OF DOCUMENTS

In response to defendant Robert S. Singer's ("Singer") March 30, 2010 Request for Hearing Regarding Plaintiff's Motion to Compel Production of Documents ("Request") (Docket #397), it is plaintiff's position that a hearing is not required. There has been significant briefing on the issue of whether Singer's October 2005 self-prepared memoranda is in fact discoverable, and the Court has been provided with all of the relevant and necessary facts in order to decide the matter. Moreover, because both parties extensively briefed the applicability of Rule 612 and whether the interests of justice require that defendant Singer produce his self-prepared memoranda, the need for a hearing is vitiated.

However, if the Court does find that a hearing is appropriate, there is no reason why a hearing regarding the production of a single document could not be held prior to the submission of a proposed scheduling order. Again, plaintiff is simply requesting the Court to order defendant Singer to produce the memoranda he drafted for himself in October 2005. Given the limited scope of plaintiff's motion to compel, it cannot be considered a burden and a waste of significant resources for the Court to decide the matter now.

For all the reasons stated herein, plaintiff respectfully asks this Court to deny Singer's Request.

DATED: April 5, 2010

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on April 5, 2010, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the e-mail addresses denoted on the attached Electronic Mail Notice List, and I hereby certify that I have mailed the foregoing document or paper via the United States Postal Service to the non-CM/ECF participants indicated on the attached Manual Notice List.

I certify under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on April 5, 2010.

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**Gianetti Investor Group**

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